## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

LLOYD HOBBS,	)	
Petitioner,	)	
VS.	)	No. 1:16-cv-02033-TWP-MPE
SUPERINTENDENT New Castle Correctional Facility,	) ) )	
Respondent	)	

## **Entry Granting Motion to Dismiss and Directing Entry of Final Judgment**

The respondent's unopposed motion to dismiss [dkt. 11] is **granted** because the record demonstrates that the petitioner failed to assert his claims during the administrative proceeding. A habeas claim is procedurally defaulted if it is not asserted in the administrative appeals. *See Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); 28 U.S.C. § 2254(b)(1)(A).

Procedural default caused by failure to exhaust administrative review can be overcome if the petitioner shows cause and prejudice or shows that failure to consider the claims will result in a fundamental miscarriage of justice. *Coleman v. Thompson,* 501 U.S. 722, 750 (1991); *Moffat v. Broyles,* 288 F.3d 978, 982 (7th Cir. 2002). The petitioner has not responded to the motion to dismiss nor has he otherwise shown adequate cause or a fundamental miscarriage of justice.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 12/22/2016

TANYA WALTON PRATT, JUDGE United States District Court Southern District of Indiana

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## Distribution:

Electronically registered counsel

LLOYD HOBBS 217557 NEW CASTLE CORRECTIONAL FACILITY Inmate Mail/Parcels 1000 Van Nuys Road NEW CASTLE, IN 47362